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Federal Communications Commission  
Washington, D.C. 20554

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MAY 29 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mayor Wyn M. John  
3800 Laverne Ave No.  
Lake Elmo, MN 55042

Dear Mr. John:

Thank you for your letter dated November 7, 1997, which was forwarded to us from the office of Senator Paul Wellstone, concerning the placement and construction of facilities for the provision of personal wireless services and radio and television broadcast services in your community. Your letter raises issues being examined in three proceedings that are pending before the Commission. In MM Docket No. 97-182, the Commission has sought comment on a Petition for Further Notice of Proposed Rule Making filed by the National Association of Broadcasters and the Association for Maximum Service Television. In this proceeding, the petitioners ask the Commission to adopt a rule limiting the exercise of State and local zoning authority with respect to broadcast transmission facilities in order to facilitate the rapid build-out of digital television facilities, as required by the Commission's rules to fulfill Congress' mandate. In WT Docket No. 97-192, the Commission has sought comment on proposed procedures for reviewing requests for relief from State and local regulations that are alleged to impermissibly regulate the siting of personal wireless service facilities based on the environmental effects of radio frequency emissions, and related matters. Finally, in DA 96-2140 and FCC 97-264, the Commission twice sought comment on a Petition for Declaratory Ruling filed by the Cellular Telecommunications Industry Association seeking relief from certain State and local moratoria that have been imposed on the siting of commercial mobile radio service facilities.

Because all of these proceedings are still pending, we cannot comment on the merits of the issues at this time. However, I can assure you that the Commission is committed to providing a full opportunity for all interested parties to participate. The Commission has formally sought public comment in all three proceedings and, as a result, has received numerous comments from State and local governments, service providers, and the public at large. Your letter, as well as this response, will be placed in the record of all three proceedings and will be given full consideration.

No. of Copies rec'd  
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Mayor Wyn M. John

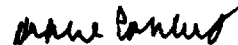
2.

At the same time, the Commission is actively pursuing initiatives that we hope will render any Commission action limiting State and local authority unnecessary. Commission staff, working with the Commission's Local and State Government Advisory Committee, is bringing together representatives of industry and municipal governments to discuss mutually acceptable solutions to the challenges posed by facilities siting. Chairman Kennard has stated that preemption of local zoning authority should be a remedy of last resort, and that the Commission should not consider preemption until the possibilities for constructive dialogue have been exhausted.

Further information regarding the Commission's policies toward personal wireless service facilities siting, including many of the comments in the two proceedings involving personal wireless service facilities, is available on the Commission's internet site at <http://www.fcc.gov/wtb/siting>.

Thank you for your inquiry.

Sincerely,



for Steven Weingarten  
Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

Copy to: The Honorable Paul Wellstone

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cc: CWD

Dockets (2)

John Conwell

j:\congress\9801295

PAUL D. WELLSTONE  
MINNESOTA

MINNESOTA TOLL FREE NUMBER:  
1-800-642-8041

## United States Senate

WASHINGTON, DC 20510-2303

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FOREIGN RELATIONS

January 26, 1998

WTS  
97-182  
1295

Dan Phythyon  
Director, Office of Legislative and  
~~Intergovernmental Affairs~~  
Federal Communications Commission  
Rm 808  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Director Phythyon:

The attached communication is for your consideration and whatever action, if any, you might deem appropriate. I would appreciate it if you would respond to Mayor Wyn M. John directly regarding this matter. I would also appreciate it if you could send a copy of your response to me.

Thank you very much for your time.

Sincerely,



Paul David Wellstone  
United States Senator

PDW:mw

Enclosure

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## City of Lake Elmo

7515537

777-5510

2800 I Avenue Avenue North / Lake Elmo, Minnesota 55042

November 7, 1997

Senator Paul Wellstone  
2550 University Ave. W.  
St. Paul, MN 55114

Dear Senator Wellstone:

I am writing to you to object to the Federal Communications Commission's activities in attempting to become the sole arbiter in the siting of cellular and broadcast towers.

Both Congress and the courts have long upheld the local government authorities' responsibility for zoning as a local function and responsibility. This was reaffirmed in the 1996 Telecommunications Act.

As a City, we have spent a great deal of time in studying the issue and the technical demands of modern telecommunication systems for the siting of these towers. We have arrived at what we feel is an appropriate ordinance which meets the needs of the telecommunication providers as well as those of the local residents. This is in spite of frustrations generated by the industry providers who seem to be reluctant to disclose their design requirements so that the ordinance details can be shaped to their generic needs.

We understand that the FCC is now actively trying to become the sole zoning authority for such towers, and are proposing unacceptably short time frames for site approval by the local units of government.

To avoid your having to read long repetitious arguments on their detailed proposals, please accept this letter as a symbol of our complete resistance to the FCC's high handed and dictatorial attitude on the subject of the siting of these towers. Thank you.

Sincerely,

Wyn M. John  
Mayor, City of Lake Elmo

Cc: Lake Elmo City Administrator  
Lake Elmo City Planner

610273